

1  
2  
3  
4  
5                   UNITED STATES DISTRICT COURT  
6                   WESTERN DISTRICT OF WASHINGTON  
7                   AT TACOMA

8 STEVE ALAN MAHONEY,

9                   Plaintiff,

10                  v.

11 PIERCE COUNTY, et al.,

12                  Defendants.

Case No. C10-5238BHS

ORDER ADOPTING REPORT  
AND RECOMMENDATION

13         This matter comes before the Court on the Report and Recommendation (“R&R”) of  
14 the Honorable Richard J. Creatura, United States Magistrate Judge (Dkt. 30) and Plaintiff’s  
15 (“Mahoney”) objections to the R&R (Dkt. 34).

16         Magistrate Judge Creatura’s R&R recommends dismissing this case without prejudice  
17 because Mahoney failed to exhaust his remedies before proceeding on his 42 U.S.C. § 1983  
18 claim in this Court. Dkt. 30. Prior to the magistrate judge issuing the R&R, Mahoney had not  
19 disputed the fact that he had not exhausted his remedies before filing this action. *See* Dkt. 30  
20 at 2. Although Mahoney now argues that he did exhaust, his argument is merely a recital and  
21 is contradicted by his own statements. *See e.g.*, Dkt. 34 at 3 (stating what Mahoney believed  
22 would happen if he completed the grievance process). Mahoney has still not established that  
23 he has exhausted the grievance process, and therefore his current action is not properly  
24 before this Court. *See* 32 U.S.C. § 1997e(a) (requiring administrative remedies to be  
25 exhausted prior to filing suit under § 1983). The Court declines to address any other issue  
26 that has been presented in this case, and the action will be dismissed without prejudice.

27  
28 ORDER – 1

The Court having considered the R&R, Plaintiff's objections, and the remaining record, does hereby find and order as follows:

- (1) The R&R (Dkt. 30) is **ADOPTED**;
  - (2) This action is **DISMISSED without prejudice**; and
  - (3) All other pending motions are **DENIED as moot**.

DATED this 30<sup>th</sup> day of March, 2011.

  
\_\_\_\_\_  
**BENJAMIN H. SETTLE**  
United States District Judge